

Customer No. 22/882
Attorney Docket No. 25/8827-00

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
)
Véronique DOUIN et al.) Group Art Unit: 1619
)
Application No.: 09/759,165) Examiner: M. Willis
)
Filed: January 16, 2001)
)
For: COSMETIC COMPOSITIONS)
COMPRISING AN AMPHOTERIC)
STARCH AND A CATIONIC)
CONDITIONER, AND USES)
THEREOF)
Commissioner for Patents and Trademarks
Washington, DC 20231

Sir:

RESPONSE TO RESTRICTION REQUIREMENT

In an Office Action dated September 19, 2001, the Examiner required restriction under 35 U.S.C. § 121 between the following Groups:

- I. Claims 1-58, drawn to a cosmetic composition, classified in class 424, subclass 401;
- II. Claims 59-62, drawn to a process for treating keratin material, classified in class 424, subclass 70.1; and
- III. Claims 63-66, drawn to a process for washing and conditioning a keratin material, classified in class 424, subclass 70.1.

Applicants elect, with traverse, to prosecute Group I, claims 1-58, drawn to a cosmetic composition. Applicants traverse on the ground that it would not be unduly burdensome to search and examine the subject matter of all the claims as written. See

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MPEP § 803. Applicants submit that a search and examination of the subject matter of Groups II and III would appear to encompass the search and examination of the subject matter of Group I because all the claims recite at least one amphoteric starch chosen from the compounds of formulae (I) to (IV), and b) at least one cationic conditioner chosen from cationic silicones, quaternary ammonium salt surfactants, cyclopolymers of alkyldiallylamine, cyclopolymers of dialkyldiallylammonium, and polyquaternary ammonium polymers. Accordingly, Applicants submit that no serious burden should result from examining the subject matter of all three groups in the same application, and therefore request that the restriction requirement be withdrawn.

In the event that the restriction requirement is maintained by the Examiner, and the elected claims drawn to a cosmetic composition are found allowable, non-elected process claims which include all limitations of the composition claims should be rejoined. See MPEP § 821.04.

The Examiner has also required an election of species for the following:

- a) the composition comprising amphoteric starches of claims 1-66;
- b) the composition comprising cationic conditioners of claims 1-66; and
- c) the composition comprising surfactants of claims 47-52.

Applicants traverse this requirement, but to be fully responsive to the requirement, elect the species of amphoteric starch of formula (I) wherein R, R', and R'' are hydrogen and n is equal to 2 (see claim 3), the species of cationic silicones chosen from quaternary ammonium salts of formula (XIV) wherein R₁, R₂, and R₃ are CH₃ and R₄ is behenyl (C₂₀) (see claim 39), and the species of anionic surfactants chosen from alkyl ether sulfate salts as disclosed on page 32, lines 7 and 8 of the specification and

claimed in claim 47. Applicants respectfully traverse on the ground that the species disclosed do not represent an unreasonable number of species. Accordingly, Applicants respectfully request that all the claimed species continue to be examined in this application.

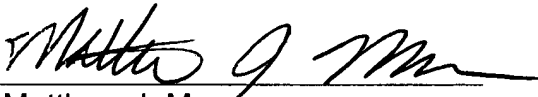
If the Examiner chooses to maintain the election of species requirement, Applicants expect the Examiner, if the elected species is found allowable, to continue to examine the full scope of the elected subject matter to the extent necessary to determine the patentability thereof, *i.e.*, extending the search to a reasonable number of the non-elected species, as is the duty according to M.P.E.P. § 803.02 and 35 U.S.C. § 121.

In view of the foregoing remarks, Applicants respectfully submit that the restriction/election of species requirement is in error and request that the requirement be withdrawn. Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: October 19, 2001

By: 
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